

Application No.: 10/725794
Amendment dated: October 12, 2005
Reply to Office action of July 28, 2005

REMARKS/ARGUMENTS

Claims 3, 7, 13 and 15, which were considered allowable, are presented in independent form, each including the limitations of its base claim and any intervening claims. Claims 4 and 14, which were also considered allowable, are dependent on claims 3 and 13, respectively.

Claims 1 and 11 have been amended to distinguish the invention from Montesi. These claims now recite that "the included angle between each said flange and said intermediate portion" is "at most, 90°." In order to clarify the significance of the "at most, 90°" limitation, claims 1 and 11 have also been amended to recite that the intermediate portion and the flanges are each "substantially planar," and that the "intermediate portion can be in face-to-face engagement with a planar, radial, surface of an exposed end of a remainder sector of a circular article of pastry while one of said flanges is disposed underneath, and in facing engagement with, a bottom of said article of pastry."

The angle limitation is fully supported by the description in paragraph 0019, which, referring to the flanges, states that, "While they may be disposed in perpendicular relation to the intermediate portion 12, they preferably meet the intermediate portion at an acute angle."

In Montesi's pastry server, the included angle between the interconnecting element 16, and the pastry support, and the included angle between the interconnecting element 16 and the handle, are both obtuse angles, because the Montesi server is intended to conform to the outwardly sloping wall of a pie plate as depicted in Montesi's FIG. 6. Montesi provides neither an identical disclosure, nor a suggestion, of the subject matter of claims 1 and 11.

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Reconsideration of the rejection on Harrel under 35 U.S.C. §102 is requested. Of the claims rejected on Harrel, claims 1, 6 and 11 are independent. The same amendments as were made to claims 1 and 11 have been made to claim 6. Claims 1, 6 and 11 define the Applicants' combined support and server as comprising a "substantially rigid, formed, sheet" having an intermediate portion and flanges. Harrel's structure has flanges, but is hinged, and is therefore not rigid. Moreover, if Harrel's hinged parts 16 and 17 are considered to constitute an "intermediate portion," the intermediate portion is not "planar" as required by claims 1, 6, and 11.

Claim 2 has been amended for consistency with claim 1, as amended.

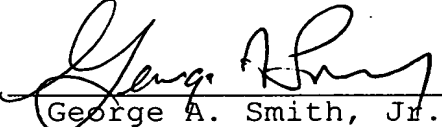
Claims 5, 8, 9, 10, 12, 16, which are dependent, either directly or indirectly, on claim 1 or 11, have not been amended, and should be found allowable if claims 1 and 11 is found allowable.

Favorable reconsideration and allowance of this application are requested.

No fee is believed to be due on account of this amendment. However, in the event that the amendment requires a fee, such as a fee for additional claims, in order to be entered, please charge the fee to our deposit account 08-3040.

Respectfully submitted,
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